



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/573,132

10/23/2006

Glen Ernst

101240-1P US

8760

22466

7590

06/24/2008

ASTRA ZENECA PHARMACEUTICALS LP  
GLOBAL INTELLECTUAL PROPERTY  
1800 CONCORD PIKE  
WILMINGTON, DE 19850-5437

EXAMINER

MURRAY, JEFFREY H

ART UNIT

PAPER NUMBER

1624

MAIL DATE

DELIVERY MODE

06/24/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                     |  |
|------------------------------|--------------------------------------|-------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/573,132 | <b>Applicant(s)</b><br>ERNST ET AL. |  |
|                              | <b>Examiner</b><br>JEFFREY H. MURRAY | <b>Art Unit</b><br>1624             |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 15 is/are pending in the application.
- 4a) Of the above claim(s) 4-10, 12 and 15 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 and 11 is/are allowed.
- 6) ☒ Claim(s) 2 and 3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Status of Claims***

1. Claims 1-3 and 11 are pending in this application. Claims 13 and 14 have been cancelled. Claims 4-10 and 12 and 15 have been withdrawn. This action is in response to the applicants' amendment after a non-final action and reply filed on February 27, 2008.

### ***Status of Objections***

2. The specification is objected to for failing to provide proper antecedent basis for claim 1. The objection against the specification is hereby withdrawn in view of applicants' amendments to claim 1.

3. Claim 1 is objected to for containing a compound which is outside the scope of the elected subject matter. The objection against claim 1 is hereby withdrawn in view of applicants' amendments to claim 1.

### ***Status of Rejections***

4. Claim 1 is rejected under 35 U.S.C. 112, first paragraph as failing to provide proper antecedent basis. The rejection of Claim 1 is hereby withdrawn in view of applicants' amendments to claim 1.

5. Claims 1-3 and 11 are rejected under 35 U.S.C. 103(a), as failing the nonobviousness requirement. The rejection of Claims 1-3 and 11 are hereby withdrawn in view of applicants' amendments of claim 1.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior office action.

***Maintained/New Objections***

***Claim Objections***

6. Claims 2 and 3 are objected to because of the following informalities:

Claims 2 and 3 are objected to for containing non-elected subject matter within the claims. Claim 2 contains the term "bromine" and "biphenyl". Claim 3 contains three compounds in its list which contain either a "halogen" or "biphenyl" for the D variable. No new matter permitted. Appropriate correction is required.

7. Claim 3 is objected to because of the following informalities:

Claim 3 is objected to for containing the word, "having" after the second compound name. Appropriate correction is required.

***Maintained/New Rejections***

***Claim Rejections - 35 USC § 112, 2<sup>nd</sup> Paragraph***

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 2 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. Claim 2 recites the limitation, "bromine" and "biphenyl" in the second line of the claim. There is insufficient antecedent basis for this limitation in the claim. These terms have been deleted from claim 1 in a prior action. Appropriate correction is required.

10. Claim 3 recites the compounds, "4-(2-bromo-thiazol-5-ylmethyl)-1,4-diaza-bicyclo[3.2.2]nonane"; "4-(4-(3-bromo-phenyl)thiazol-2-ylmethyl)-1,4-diaza-

bicyclo[3.2.2]nonane”; and 4-(4-(2-biphen-3-yl)thiazol-2-ylmethyl)-1,4-diaza-bicyclo[3.2.2]nonane in the second, eighth and tenth lines of the claim. There is insufficient antecedent basis for this limitation in the claim. The terms “halogen” and “biphenyl” have been deleted from claim 1 in a prior action. Appropriate correction is required.

### ***Allowable Subject Matter***

11. Claims 1 and 11 are allowed. Claims 1 and 11 are free of the prior art. The closest prior art is Galli, et. al. U.S. Patent No. 6,844,337. The Galli patent discloses a similar core to that which is instantly claimed. The structure where the heterocycle linked to the diazacyclononane is an 5-isoxazolyl for the “E” variable is set forth in the current application, but the prior art does not teach or fairly suggest where E is a thiazolyl or an imidazolyl as is required in the instant application.

### ***Conclusion***

12. Claims 2 and 3 are rejected.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

Art Unit: 1624

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey H. Murray whose telephone number is 571-272-9023. The examiner can normally be reached on Mon.-Thurs. 7:30-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. James O. Wilson can be reached at 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeffrey H Murray/  
Patent Examiner, Art Unit 1624

/James O. Wilson/  
Supervisory Patent Examiner, Art Unit 1624